

Message Text

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ORIGIN DPW-01

INFO OCT-01 EA-10 IO-10 ISO-00 CIAE-00 DODE-00 PM-03 H-02

INR-07 L-02 NSAE-00 NSC-05 PA-02 PRS-01 SP-02 SS-15

USIA-15 DRC-01 /077 R

DRAFTED BY D/PW:FASIEVERTS:JS

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FM SECSTATE WASHDC

TO AMEMBASSY SAIGON

USMISSION GENEVA

INFO CINCPAC HONOLULU HI

UNCLAS STATE 089947

E.O. 11652:NA

TAGS: AINF, PFOR, VS

SUBJECT: DECLASSIFICATION OF ICRC REPORTS

1. SUMMARY: IN RESPONSE TO RECENT LEGAL DEVELOPMENT UNDER FREEDOM OF INFORMATION ACT (5 USC 552), DEPT. PLANS DECLASSIFY COPIES HELD BY USG OF ICRC REPORTS ON VISITS BY ICRC DELEGATES TO PRISONER OF WAR FACILITIES (POW CAMPS AND POW COLLECTING POINTS) IN REPUBLIC OF VIETNAM FROM 1965 THROUGH JANUARY, 1973. ACTION REQUESTED: REQUEST MISSION INFORM GVN OF THIS DECISION.

2. BACKGROUND: REQUEST FOR PUBLIC ACCESS TO THESE REPORTS UNDER FREEDOM OF INFORMATION (FOI) ACT WAS INITIALLY RECEIVED UNCLASSIFIED

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ED BY DEPARTMENT IN JULY, 1972 AND DENIED BY OFFICE OF DEPT. LEGAL ADVISER IN OCTOBER, 1972. DENIAL WAS APPEALED IN NOVEMBER, 1972, AND APPEAL WAS DENIED BY DEPARTMENT'S COUNCIL ON CLASSIFICATION POLICY ON JANUARY 4, 1973, ON GROUND THAT

REPORTS HAD BEEN RECEIVED BY USG IN CONFIDENCE FROM GVN AND WERE PROPERLY CLASSIFIED CONFIDENTIAL. THIS DENIAL WAS SUBSEQUENTLY APPEALLED TO US DISTRICT COURT, WHICH RECENTLY ORDERED NEW INQUIRY INTO CONTINUED NEED FOR CLASSIFICATION OF THESE REPORTS. IN RESPONSE TO THESE FURTHER LEGAL ACTIONS, WE HAVE CONCLUDED THAT APPROPRIATE ACTION NOW IS TO DECLASSIFY REPORTS AND PERMIT PRIVATE CITIZEN ACCESS AS REQUESTED UNDER FOI ACT.

3. THIS SUBJECT WAS DISCUSSED IN GENEVA WITH GVN AMB. LE VAN LOI IN EARLY MARCH, 1975 BY DEPARTMENT DEP. LEGAL ADVISER GEORGE ALDRICH AND DEPT. PW/MIA OFFICER FRANK SIEVERTS, BOTH IN GENEVA FOR LAWS OF WAR CONFERENCE. ALDRICH AND SIEVERTS INFORMED LOI DECLASSIFICATION MIGHT BE NECESSARY UNDER FOI ACT, AND LOI SAID HE WOULD INFORM GVN. SIEVERTS HAD EARLIER INFORMED AMB. PHUONG (IN 1973) OF CASE AND DEPT.'S ACTION AT THE TIME TO DENY ACCESS.

4. ALTHOUGH WE REGRET THIS ACTION COMES AT A TIME WHEN GVN IS HARD PRESSED, WE ARE RELUCTANT TO SEEK FURTHER DELAYS IN VIEW OF REQUIREMENTS IN 1974 FOI ACT AMENDMENTS FOR PROMPT AGENCY RESPONSES. IT HAS BEEN OVER 2-1/2 YEARS SINCE INITIAL REQUEST FOR ACCESS TO THESE REPORTS, AND WE BELIEVE IT WOULD BE FAR PREFERABLE AT THIS TIME TO DECLASSIFY THEM THAN TO ENGAGE IN LEGAL DEBATE ON CONTINUED NEED FOR CLASSIFICATION OF THESE DOCUMENTS, WHICH IN OPINION OF JUSTICE DEPT. ATTORNEY'S WE ARE UNLIKELY TO WIN.

5. REQUEST MISSION INFORM GVN.

6. FOR GENEVA: PLEASE INFORM AMB. LOI AND ICRC.
KISSINGER

UNCLASSIFIED

<< END OF DOCUMENT >>

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Decaption Note:
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Disposition Approved on Date:
Disposition Authority: n/a
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Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Margaret P. Grafeld
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